

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ABINGDON DIVISION**

UNITED STATES OF AMERICA)
v.)
STACEY POMRENKE,)
Defendant.)
Case No. 1:15CR00033
OPINION AND ORDER
By: James P. Jones
United States District Judge

Zachary T. Lee and Kevin L. Jayne, Assistant United States Attorneys, Abingdon, Virginia, for United States; R. Wayne Austin and David L. Scyphers, Scyphers & Austin, P.C., Abingdon, Virginia, and Joel B. Miller, Joel B. Miller PLC, Roanoke, Virginia, for Defendant.

In this criminal case, the defendant has moved for admission of the *July-August 2006 Northeast Edition of the Kelley Blue Book Official Guide for Used Cars* for a vehicle that the government alleges the defendant sold to BVU Authority. At the pretrial hearing on February 4, 2016, the government objected to the admission of this evidence, arguing that the evidence is hearsay and its relevance has not been established. I took the motion under advisement. I now hold that the evidence likely falls within a hearsay exception and may be admitted if its relevance is established at trial.

Under the Federal Rules of Evidence, “[m]arket quotations, lists, directories, or other compilations that are generally relied on by the public or by persons in

particular occupations" are among the categories of evidence that "are not excluded by the rule against hearsay, regardless of whether the declarant is available as a witness." Fed. R. Evid. 803(17). Several courts have concluded that the Kelley Blue Book falls into this hearsay exception. *See, e.g., Davidson v. Barnhardt*, No. CV 11-7298 FMO (VBKx), 2013 WL 6388354, at *14 (C.D. Cal. Dec. 6, 2013); *CIT Grp./Equip. Fin., Inc. v. Landreth*, No. 3:06-cv-269, 2007 WL 4554224, at *5 (E.D. Tenn. Dec. 19, 2007) (remarking that "[f]ederal courts have routinely admitted the Blue Book into evidence as falling under the exception provided in Rule 803(17)"); *In re Gonch*, 435 B.R. 857, 861-62 (Bankr. N.D.N.Y. 2010) (noting that "[t]he public relies on Kelley Blue Book values to make informed car purchase decisions"). Like those courts, I find that the Kelley Blue Book may fall within the hearsay exception.

Accordingly, it is **ORDERED** that the Motion for Admission of Evidence (ECF No. 58) is GRANTED in part. Counsel for the defendant may offer this evidence for admission during the trial of this matter if counsel shows that it is generally relied upon by the public and establishes its relevance.

ENTER: February 9, 2016

/s/ James P. Jones
United States District Judge